

REMARKS

Claims 1-6 are pending in the present application.

Double Patenting

Claims 1-6 were rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-8 of U.S. Patent No. 6,245,502 ("502 patent"). The Examiner asserted that Claims 1-6 of the instant application and Claims 1-8 of the '502 patent are drawn to a screening assay for inhibitors of enzyme 1. The Examiner further asserts that the scope of the claims overlap in that the claims of the instant application are directed to "small organic molecules" while the claims of the '502 patent are directed to peptides.

In response, while not admitting that the claims of the above-identified patent application are not patentably distinct from claim 1-8 of U.S. Patent No. 6,245,502, Applicants submit herewith a Terminal Disclaimer under 37 C.F.R. § 1.321(b) by the assignee of the above-identified application (1) disclaiming any part of any patent granted on the present application (application Serial No. 09/845,225; "'225 application") which could extend beyond the expiration date of any patent granted on the '502 patent; and (2) ensuring that any such patent granted on the '225 application shall be enforceable only for and during such period that such patent is commonly owned with any patent granted on the '502 patent.

By this terminal disclaimer, and as stated therein, the assignees do not disclaim any terminal part of any patent granted on the '225 application prior to the expiration date of the full statutory term of any patent granted on the '502 patent, as presently shortened by any Terminal Disclaimer, in the event that any patent granted on the '502 patent later expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. § 1.321, has all claims canceled by a reexamination certificate, or is otherwise terminated prior to the expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above. Applicants submit that the submission of the Terminal Disclaimer obviates the rejection, and respectfully requests its withdrawal.



CONCLUSION

Applicants respectfully request that the remarks made herein and the Terminal Disclaimer be entered and made of record in the instant application. If any issues remain in connection herewith, the Examiner is respectfully invited to telephone the undersigned to discuss the same.

Respectfully submitted,

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